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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,371	09/30/2003	Robert Beckstrom	6065/88622	5983
24628	7590	10/16/2006	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606				DAYE, CHELCIE L
		ART UNIT		PAPER NUMBER
		2161		

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/675,371	BECKSTROM ET AL.	
	Examiner	Art Unit	
	Chelcie Daye	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 August 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/25/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is issued in response to applicant's amendment filed August 24, 2006.
2. Claims 1-20 are presented. No claims added and none cancelled.
3. Claims 1-20 are pending.
4. Applicant's arguments filed August 24, 2006, have been fully considered but they are not persuasive.

Information Disclosure Statement

5. The information disclosure statement (IDS) submitted on 9/25/06 was filed after the mailing date of the amended application on 8/24/06. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
7. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Newly amended claim 13 recites the newly amended limitation "the promotion" in the second line of the claim. Examiner is uncertain as to what 'promotion' applicant is

referring to, since there is no prior mention of a promotion within the previous limitations. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fedorov (US Patent No. 6,047,060) filed on February 20, 1998, in view of Shaffer (US Patent No. 6,363,145) filed on August 17, 1998.**

Regarding Claims 1 and 11, Fedorov discloses a method for improving transactions in a communication system, comprising:

monitoring a data session (column 5, lines 26-29, Fedorov) between at least one of first and second parties (column 7, lines 56-59, Fedorov)¹ in a transaction in the communication system (column 10, lines 48-55, Fedorov); and engaging a third party into the transaction (column 7, lines 47-50, Fedorov) as a function of the monitoring of the data session between the first and second parties (column 7, lines 56-59, Fedorov). However, Fedorov is silent with respect to the monitoring being done automatically. On the other hand, Shaffer

discloses the monitoring being done automatically (column 4, lines 17-27, Shaffer). Fedorov and Shaffer are analogous art because they are from the same field of endeavor of third party participation in an agent call activity. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Shaffer's teachings into the Fedorov system. A skilled artisan would have been motivated to combine in as suggested by Shaffer at column 2, lines 18-23, in order to provide automated ACD call monitoring. As a result, enabling a supervisor to utilize information generated by the monitoring during the pendency of the call and providing a more complete description of agent performance.

Regarding Claims 2 and 12, the combination of Fedorov in view of Shaffer, disclose the method wherein the third is at least one of a virtual party and an automated input (column 5, lines 37-50, Shaffer).

Regarding Claims 3 and 13, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party is engaged to review data messages before the data messages are sent (column 8, lines 8-20, Fedorov).

Regarding Claims 4 and 14, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party engages in a background of

¹ Examiner Notes: The agent and the customer represent the first and second parties.

the data session of at least one of the first and second parties (column 7, lines 50-54, Fedorov)².

Regarding Claims 5 and 15, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party engages in a foreground of the data session (column 8, line 29, Fedorov) to reduce stress levels of at least one of the first and second parties (columns 7-8, lines 66-67 and 1-5, respectively, Shaffer).

Regarding Claims 6 and 16, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party communicates only with one of the first and second parties (column 8, lines 27-35, Fedorov)³.

Regarding Claims 7 and 17, the combination of Fedorov in view of Shaffer, disclose the method wherein the third party communicates with both of the first and second parties (column 8, lines 27-35, Fedorov)⁴.

Regarding Claims 8 and 18, the combination of Fedorov in view of Shaffer, disclose the method wherein the monitoring of the data session between

² Examiner Notes: Since the supervisor is talking to the agent and not both, the supervisor is participating in the background of the call.

³ Examiner Notes: "To communicate with the agent transparent to the caller" corresponds to only communicating with one of the parties (i.e. the agent).

⁴ Examiner Notes: "To participate in the calls" corresponds to communicate with both parties.

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the first and second parties is conducted in real-time (column 7, lines 50-54, Fedorov).

Regarding Claims 9 and 19, the combination of Fedorov in view of Shaffer, disclose the method wherein the monitoring of the data session is conducted by at least one of; analyzing a respective voice signal of at least one of the first and second parties (column 4, lines 34-39, Shaffer), converting a respective voice signal of at least one of the first and second parties to text and analyzing the text (column 9, lines 35-39, Fedorov), and analyzing a physical stress level of at least one of the first and second parties (column 6, lines 48-52, Shaffer).

Regarding Claim 10, the combination of Fedorov in view of Shaffer, disclose the method wherein the dynamic monitoring comprises inspection of contents of data messages (column 10, lines 31-34, Fedorov)⁵ and wherein detection of problematic phrases engages the third party (column 5, lines 29-36, Shaffer).

Regarding Claim 13, the combination of Fedorov in view of Shaffer, disclose the apparatus wherein one of the parties in the promotion is a customer, wherein the monitoring comprises automatically detecting an indication by the

⁵ Examiner Notes: "Reviewing" corresponds to inspecting.

customer that they desire to deal with a supervisor and wherein the means for engaging engages the supervisor is response to (column 4, lines 44-63 and column 5, lines 29-36, Shaffer).

Regarding Claim 20, the combination of Fedorov in view of Shaffer, disclose a system for improving transactions in a communication system comprising:

a computerized transaction handling system, which handles data sessions between at least one of first and second parties (column 7, lines 56-59, Fedorov) in a transaction in the communication system (column 10, lines 48-55, Fedorov);

a computerized sub-system associated with the transaction handling system, which automatically monitors at least some of the data sessions (column 4, lines 17-27, Shaffer); and

a computerized sub-system associated with the transaction handling system which engages a third party into the transaction (column 7, lines 47-50, Fedorov) in response to detection in real-time of at least one target parameter (column 7, lines 50-54, Fedorov).

Response to Arguments

Applicant argues, Fedorov does not disclose the newly amended limitation of automatic monitoring, does not concern data sessions and does not teach engaging the third parties as a function of the monitoring.

Examiner respectfully disagrees. The newly applied reference of Shaffer was hereby combined with the Fedorov reference to further disclose the newly amended limitation of “automatically monitoring”. As such the combination of Fedorov in view of Shaffer, does disclose the newly amended limitation of as disclosed in the action above. As a result, applicant's arguments in regards to 'automatic monitoring' have been considered but are moot in view of the new ground(s) of rejection. Applicant also argues, Fedorov does not concern “data sessions, which are made up of text messages, data messages, e-mail, etc, as stated in the specification at paragraph 30”. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., text messages, data messages, e-mail, etc.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, the phrase 'data session' is given the broadest reasonable interpretation, in which Fedorov discloses at column 5, lines 26-29; wherein the present invention monitors an interactive call. The interactive call corresponds to the data session, because data is being exchanged between an agent and a customer as a way of delivering information. To further explain, column 6, lines 30-42; the interactive call comprises audio sharing which is a data exchange protocol for multimedia communication (audio, video, and data) across IP-based networks, including the Internet. Lastly, Fedorov discloses engaging the third parties as a function of the monitoring at column 7, lines 47-63; wherein the supervisor (i.e. third party) has

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the ability to connect to the agents telephone for monitoring the active call, for talking to the agent, for sharing files with the agent and for participating in the calls (column 8, lines 27-30, Fedorov). The ability of the supervisor to participate in the calls correspond to 'engaging' and the supervisor being active on the monitoring shows that the supervisor is a function of the monitoring.

Applicant argues, Fedorov nor Shaffer disclose newly amended claim 3 for "review of messages" and newly amended claim 13 for "automatic detection of customer desire for a supervisor".

Examiner respectfully disagrees. In reference to amended claim 3, as stated in the action above, Fedorov discloses the amended limitation of "reviewing data messages", at column 8, lines 8-20; wherein the supervisor has the ability to view the agents screen and share files between the agents as a way of monitoring the active calls. Also, with regards to amended claim 13, as stated in the action above, Shaffer discloses the amended limitation of "automatically detecting an indication by the customer, which desires to deal with a supervisor", at column 4, lines 44-63 and column 5, lines 29-36; wherein the voice patterns of the customer are monitored and when the voice patterns exceed a threshold (i.e. the customer becomes agitated or irate), the supervisor gets a notification of the distress and therefore has the option of joining the call. As a result, both Fedorov and Shaffer disclose the amended limitations of claims 3 and 13.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

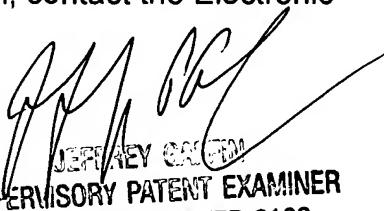
Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chelcie Daye whose telephone number is 571-272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye
Patent Examiner
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October 4, 2006



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